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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/276,080	03/25/1999	CHRISTOPHER MICHAEL PURSE	583-1006	1624

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BARNES & THORNBURG
P.O. BOX 2786
CHICAGO, IL 60690-2786

EXAMINER	
DUONG, FRANK	
ART UNIT	PAPER NUMBER
2666	

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)	
	09/276,080	PURSE, CHRISTOPHER MICHAEL	
	Examiner	Art Unit	
	Frank Duong	2666	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on *21 October 2004*. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☒ The proposed amendment(s) will not be entered because:

   (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a)☒ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: *1-5,7,8 and 10-21*.

   Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____

Frank Duong
Examiner
Art Unit: 2666

Continuation of 2. NOTE: The amendment fails to place the application in a favorable condition for allowance for the following rationales. In the Remarks of the outstanding response Applicant states "claim 10 has been revisited as suggested by the Examiner to define further the claim feature of the messaging information for recreating the supercarrier. The claim expression "required to recreate", has been replaced by "sufficient to recreate". This is done reluctantly since the applicant still believes that only an unreasonable interpretation of the previous wording of the claim can read on to Martin". In response to the statement, Examiner has carefully reviewed the records and failed to find where the Examiner has suggested the Applicant to do the above would overcome the rejection of Martin Reference. Moreover, in the outstanding response Applicant also alleges " There is no doubt that the revised claim does not read on to the TOH shown in Martin Table 2 at col. 9 explicitly shows that 8 part of the TOH are terminated by the demultiplexer in Martin. Thus, there is no possibility of recreating the supercarrier, and hence there is no possibility of the demultiplexer of Martin showing the claim feature of inserting messaging information "sufficient to recreate the supercarrier ... by Martin". In response Examiner asserts the Martin's TOH disclosed at col. 9, line 41 and thereinafter taken in view of TABLE 2 clearly anticipates the claimed "messaging information" whether "required to recreate" or "sufficient to recreate" the supercarrier. At col. 9, line 41 and thereinafter, as clearly pointed out in the Office Action, Martin discloses the trib transport overhead (TOH) processor receives the SOH and LOH bytes of all the input STS-48 and processes these bytes to include terminating the A1-2, J0, B1, Z0, B2, S1, Z1 and Z2 bytes and passes through the E1, F1, D1-3, K1, K2, M1 and E2 bytes. In addition, at col. 10, line 64 and thereinafter, Martin further discloses POH monitor 68 accesses the POH of each trib system. The trib STS POH is passed through to comply with the definition of the transparency. Moreover, at col. 12, line 40 and thereinafter, Martin further discloses SC TOHP 66 passes the trib TOH bytes from block 60 and aligns each byte into the correct timeslot before passing same to a supercarrier (SC) output port 71. Contradistinction to the Applicant's allegation, Martin still anticipates the claimed invention in the original or amended form. It is noted that the proposed amendment creates additional problem by changing the dependency of claims 16-17 to depend from claim 14. By reading the preamble, claims 16-17 should depend from claim 15. Examiner does the additional check and finds out that the instant application and the Martin references are owned by the same company, Nortel Network Limited. It is suggested in a response to this Office Action Applicant should include a statement of "instant application and Martin patent are commonly owned" to disqualify the reference using in the 103 rejection of claims 1-5 and 7-8 pertaining new rule of 35 U.S.C. 103(c) and cancel the rejected claims 10-21 to place the application in a better form for allowance .